

part of, or separate from the larger metropolitan area; (d) whether the specified community has its own local government and elected officials; (e) whether the smaller community has its own telephone book provided by the telephone company or zip code; (f) whether the community has its own commercial establishments, health facilities, and transportation systems; (g) the extent to which the specified community and the central city are part of the same advertising market; and (h) the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools and libraries. Faye and Richard Tuck, 3 FCC Rcd 5374 (1988).

22. The kaleidoscope of combinations of facts and circumstances under these criteria is virtually endless. But there is more. All eight factors need not favor the applicant. If a majority of the factors favor the specified community and a minority are unfavorable, the specified community can be awarded the allotment. Id.; Parker and Port St. Joe, Florida, 11 FCC Rcd 1095, ¶¶9-11 (1996). So, there are kaleidoscopes of combinations of facts and circumstances both for and against the specified community.

23. But there is still more. Nowhere amongst this no-man's land of subjective facts and circumstances is there provision for the most crucial consideration of all, i.e., a determination of the reasonable likelihood that a broadcast station with a signal serving the central city or metropolitan area will in truth serve

as a meaningful local outlet for a designated licensed community.

24. We don't know if the Morningside situation (in which tiny Morningside, Maryland (2000 U.S. Census population 1,925) is the home of the top ranked station in the Baltimore-Washington market) was a product of the Tuck policy. But the Morningside case is symptomatic of the need to consider the reasonable likelihood of a meaningful local outlet for the smaller community in a major market in the Tuck line of cases. For many years now, the Morningside example involving Infiniti's controversial and popular station has been a public fact of life in the Washington, D.C. area for the Commission and its staff to observe and alert them to this flaw in the Tuck allotment policy.

25. The records in allotment proceedings in which the nebulous, subjective Tuck policy is applied, ignoring the realities of the radio marketplace, permit the agency to come down for or against any allotment. The policy essentially boils down to what the agency wants the policy to mean. As such, it is better suited to the art of diplomacy than to compliance with the rigors of decisionmaking under Motor Vehicle Manufacturers Association v. State Farm Insurance Company, 463 U.S. 29 (1983) and the Administrative Procedure Act.

H.

Study of "Tuck" rulings from 1995 to 2004

26. The United States Court of Appeals has held that it is incumbent on a federal agency to monitor the effectiveness of its rules and policies in relation to its regulatory duties and responsibilities. Bechtel v. FCC, 10 F.3d 875 (D.C.Cir. 1993).

In that regard, we have attached a "Study of Reported Decisions by the FCC Applying the Tuck Precedent to Determine Whether to Grant or Deny a 'First Local Service Status' in FM Allotment Rulemaking Proceedings."

27. This study reflects that during the period from September 1995 to August 2004, at least 54 reported decisions applied the Tuck policy.⁴ One reported decision, in 1999, denied first local service status to the community of Lolo, Montana (population 2,747) located in the urbanized area of Missoula, Montana. In all of the other 53 reported decisions studied, the Commission granted first local service status to the community for which such status was requested. The Tuck factors could be and in fact were applied to support the first local service status without fail, whether involving small proposed communities of license (such as Leupp, Arizona, population 857, and Gurley, Alabama, population 876), large proposed communities of license (such as Sunnyvale, California, population 131,760, and Hoover, Alabama, population 62,742), small urbanized areas (such as the Hyannis, Massachusetts, and Clarksville, Kentucky, urbanized areas) or large urbanized areas (such as the Chicago, Dallas-Fort Worth and Atlanta urbanized areas).

28. Since 1995, a favorable Tuck result has been available to the party seeking first local service status virtually for the

⁴ An effort was made to find all such reported decisions although we cannot say that other reported decisions do not exist. We have excluded cases in which there is a reference to a Tuck submission, but the case was decided on other grounds

asking. Moreover, the sole case in which a first local service status was denied in 1999 is indistinguishable from the other cases in which the status was always granted. Compare, e.g., Report and Order of Media Bureau, released November 30, 1999, MM Docket No. 97-203, denying 307(b) first local service status, to Lolo, Montana, population 2,746, located 12 miles from the center city in the urbanized area, Missoula, Montana, population approximately 42,000, with Report and Order of Media Bureau, released February 9, 2004, MM Docket No. 02-79, granting 307(b) first local service status to Park City, Montana, population 870, 21 miles from the center city in the urbanized area, Billings, Montana, population 89,847.

29. There are decisions awarding a favorable Tuck status in which there is no analysis of the factors whatsoever. See, e.g., Report and Order of Media Bureau, released July 24, 2003, MB Docket 03-105 (Malta, New York) at ¶4 and n. 4; Report and Order of Media Bureau, released May 18, 2001, MM Docket 00-225 (White Oak, Texas at ¶1; Report and Order of Media Bureau, released September 5, 2003, MB Docket No. 03-419 (Tybee Island, Georgia) at ¶4. A variation on this practice is to number the 8 Tuck factors and then refer to numbers leading to the decision without any analysis, e.g., Report and Order of Media Bureau, released June 23, 2003, MM Docket 01-175 (Fletcher, North Carolina) at ¶3 and n. 6. Sometimes there is an extended analysis, e.g. Report and Order of Media Bureau, released November 29, 1996, MM Docket No. 95-175 (Newcastle, Oklahoma) at ¶3. But, whether there is no

analysis, a brief analysis or a more extended analysis, the result is always the same. With the single exception noted, the Tuck policy always favors a 307(b) first local service status for the subject community.

30. There is something wrong here. As indicated in ¶24, supra, the Morningside example is a warning sign to the Commission regarding the actual service orientation of stations in small communities having facilities reaching into the center city of an urbanized area. All Tuck cases involve this relationship since Tuck does not apply to situations located outside of any urbanized area. This recurring truth about the attraction of the center city applies to major markets included in the survey such as Phoenix, Oklahoma City, Dallas-Fort Worth, Columbus, Ohio, Des Moines, Austin, Texas, Atlanta, Houston, Minneapolis-St. Paul, Kansas City, Chicago, Charlotte, San Jose, Birmingham, Jacksonville, Indianapolis, Orlando, Salt Lake City, Portland, Seattle and Louisville. It applies to lesser markets such as Denton, Lubbock and Waco, Texas, Little Rock, Myrtle Beach, Spokane, Flagstaff, Binghamton, Corpus Christi, Flint MI, Panama City, Albany, Kingsport TN, Tuscaloosa, Goldsboro NC, Asheville NC, Athens GA, Huntsville and Columbia SC. It can even apply to small markets as well, such as Hyannis MA, Clarksville TN-KY, Stuart FL, Longview TX, Billings MO, Prescott AZ and Cheyenne WY.

31. There are no metes or bounds to the policy. The door is wide open. Virtually all Tuck cases are won by the proponent.

In many of those cases, probably most of them, there is the inherent Morningside seed and temptation to seek the overall market audience rather than in fact serving as a first local outlet. Considering the many major markets that are involved in the Tuck cases and taking into account the relative guarantee that submitting a Tuck showing will win the case, the chances are that the policy has spawned many more Morningsides across the countryside.

I.

To apply the "Tuck" policy on a contrived premise that an established major market station may be accorded a decisional "first local outlet" status for a tiny community in its existing market is devoid of rational thought

32. Virtually all of the 54 reported decisions that were studied involved an effort to establish a new station in -- or move an existing station into -- a community that is relatively small in relation to the urbanized area in which it is located. The proponents of the 307(b) first local station status are newcomers or existing stations seeking to establish a new or expanded broadcast service within the urbanized area.

33. None of the 54 reported decisions involves -- or stands as precedent for -- the use of Section 307(b) as sought here by the Joint Parties with regard to the Dallas-Fort Worth, San Antonio and Austin radio markets, in which a long established dominant radio station in the market whose economic interests will demand continued programming service that has led to such dominance, seeks decisional 307(b) credit for proposing to become the first local radio service for one of hundreds of small

communities within its market. Considering the total implausability of any such situated station ever really doing this, these efforts take the amorphous and undisciplined Tuck policy described in H above to a new, surreal level.

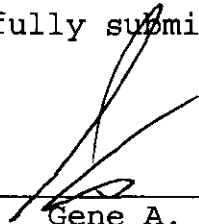
34. We are reminded of a line spoken by Jack Nicholson in the Academy Award winning movie, *Is This All There Is*, starring Helen Hunt as the female lead. Mr. Nicholson played the role of a successful author of novels about women who in his personal life, until ultimately brought to heel by Ms. Hunt, was given to sarcasm. A young female admirer upon meeting him and seeking an autograph asked, how can you be so perceptive about the way women think and feel? He responded, "I envision how men think and feel, and then remove all semblance of reason." So, too, here. The effort of the long established powerhouse radio stations in the the Dallas-Fort Worth, San Antonio and Austin markets, to claim first local service credit under Section 307(b) for tiny communities within their metro service areas take the already dubious Tuck policy and then remove all remaining semblance of reason.

J.
Conclusion

35. For the foregoing reasons, the JP Counterproposal should be denied and the subject petition of Ms. Pyeatt for a second local FM service for Fredericksburg, Texas, should be

granted.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'Gene A. Bechtel', is written over a horizontal line.

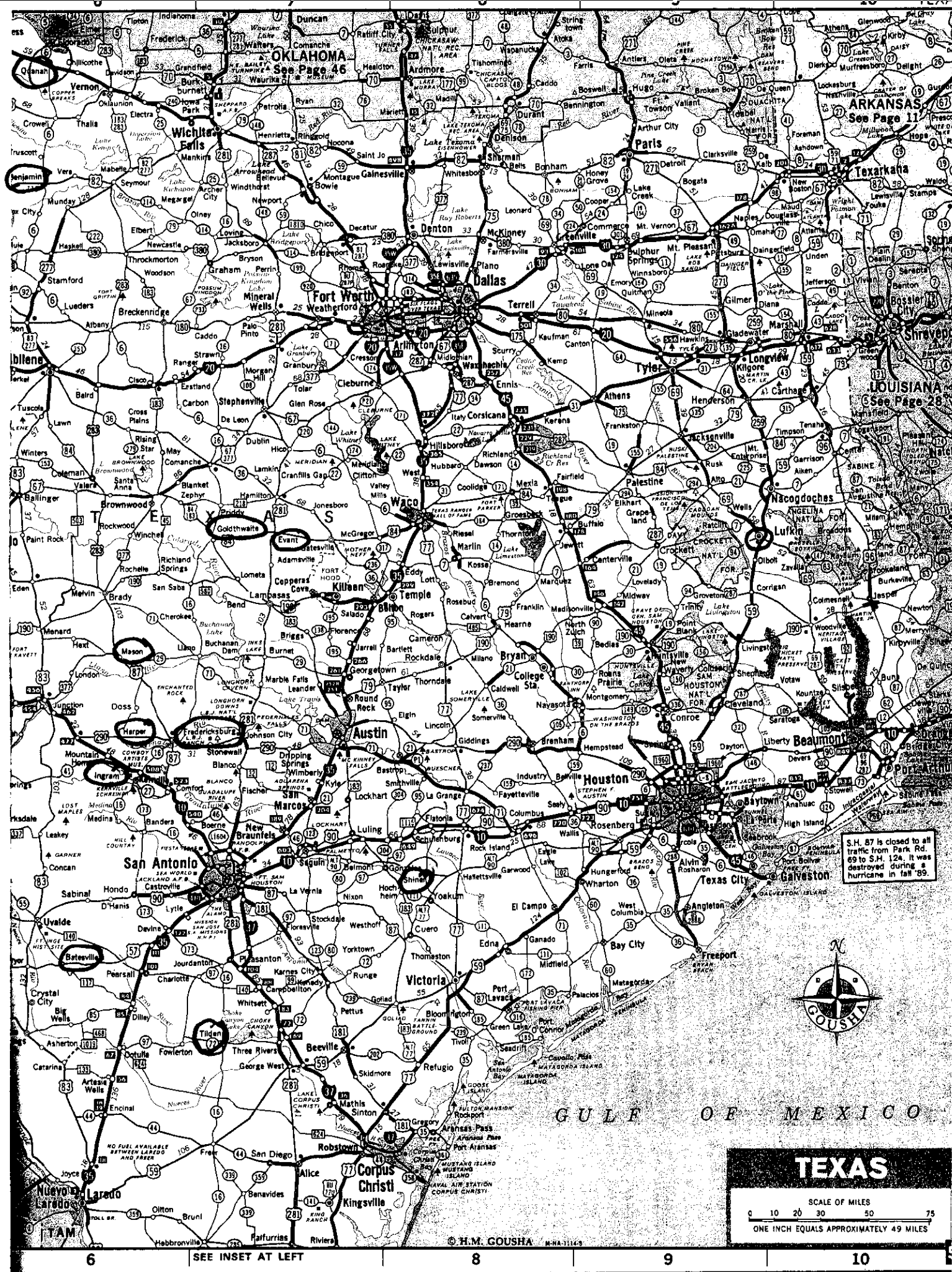
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Telephone 202-496-1289
Telecopier 301-762-0156

Counsel for Katherine Pyeatt

July 18, 2005

EXHIBIT 1



SEE INSET AT LEFT

6

8

9

10

EXHIBIT 2

radio-locator

formerly the MFL List of Radio Stations on the Internet

find US radio stations by location

city/zip San Antonio

state TX

go

find by call letters

go

Site Navigation:

[home page](#)

[city search](#)

[call sign search](#)

[format search](#)

[u.s. state search](#)

[canadian search](#)

[international search](#)

[advanced search](#)

[mobile edition](#)

There are 46 radio stations within close listening range of
San Antonio, Texas. (29° 27' 06" N, 98° 30' 46" W)

Ⓜ Didn't find your station? [Click here](#) to modify your search.

Ⓜ Info: Click on this icon to get more information about a station or to submit a change.

⚡ Bitcaster: Indicates that the station broadcasts its audio on the Internet.

Distances to the stations are in miles.

Info	Call Sign	Frequency	Dist./Signal	City	School	Format
Ⓜ	KPAC	88.3 FM	13.6 mi.	San Antonio, TX		Classical
⚡ Ⓜ	K204DX (KAWZ)	88.7 FM	12.0 mi.	San Antonio, TX		Religious
⚡ Ⓜ	KSTX	89.1 FM	13.6 mi.	San Antonio, TX		Public Radio
⚡ Ⓜ	KSYM	90.1 FM	0.9 mi.	San Antonio, TX	San Antonio College	College
⚡ Ⓜ	KYES	90.9 FM	22.2 mi.	San Antonio, TX		Religious
⚡ Ⓜ	KZLV	91.3 FM	19.9 mi.	Lytle, TX		Christian Contemporary
⚡ Ⓜ	KRTU	91.7 FM	2.0 mi.	San Antonio, TX	Trinity University	Jazz
Ⓜ	KROM	92.9 FM	19.3 mi.	San Antonio, TX		Spanish
Ⓜ	KLEY	94.1 FM	18.5 mi.	Floresville, TX		Spanish
Ⓜ	KCOR	95.1 FM	32.8 mi.	Comfort, TX		Spanish
Ⓜ	KXXM	96.1 FM	14.4 mi.	San Antonio, TX		Hot AC
Ⓜ	KAJA	97.3 FM	13.6 mi.	San Antonio, TX		Country
Ⓜ	KNGT (CP) Ⓜ	97.7 FM	52.8 mi.	McQueeney, TX		Tejano
Ⓜ	KBBT	98.5 FM	13.6 mi.	Schertz, TX		Urban Contemporary
⚡ Ⓜ	KISS	99.5 FM	19.3 mi.	San Antonio, TX		Rock
⚡ Ⓜ	KCYX	100.3 FM	13.6 mi.	San Antonio, TX		Country
⚡ Ⓜ	KONO	101.1 FM	13.6 mi.	Helotes, TX		Oldies
Ⓜ	KQXT	101.9 FM	2.9 mi.	San Antonio, TX		Adult Contemporary
Ⓜ	KSRX	102.7 FM	2.9 mi.	San Antonio, TX		Rock
Ⓜ	KEYI	103.5 FM	55.9 mi.	San Marcos, TX		Oldies
Ⓜ	K279AB (KMFR)	103.7 FM	5.3 mi.	San Antonio, TX		Classic Rock
Ⓜ	KRIO	104.1 FM	52.7 mi.	Pearsall, TX		Country
Ⓜ	KZEP	104.5 FM	2.8 mi.	San Antonio, TX		Classic Rock
⚡ Ⓜ	KSMG	105.3 FM	19.3 mi.	Seguin, TX		Hot AC
⚡ Ⓜ	KELZ	106.7 FM	18.5 mi.	Terrell Hills, TX		Top-40
Ⓜ	KXTN	107.5 FM	19.3 mi.	San Antonio, TX		Tejano

① KTSA	550 AM	6.6 mi.	San Antonio, TX	News/Talk
① KLBJ	590 AM	75.9 mi.	Austin, TX	News/Talk
① KSLR	630 AM	10.6 mi.	San Antonio, TX	Religious
① KKYX	680 AM	19.5 mi.	San Antonio, TX	Country
① KSAH	720 AM	20.9 mi.	Universal City, TX	Spanish
① KTKR	760 AM	12.3 mi.	San Antonio, TX	Sports
① KSJL	810 AM	9.8 mi.	Somerset, TX	Urban Contemporary
① KONO	860 AM	5.7 mi.	San Antonio, TX	Oldies
① KLUP	930 AM	7.9 mi.	Terrell Hills, TX	Nostalgia
① KBIB	1000 AM	22.6 mi.	Marion, TX	Spanish
① KDRY	1100 AM	11.0 mi.	Alamo Heights, TX	Religious
① KRDY	1160 AM	11.9 mi.	San Antonio, TX	Children's
① WOAI	1200 AM	23.4 mi.	San Antonio, TX	News/Talk
① KZDC	1250 AM	5.1 mi.	San Antonio, TX	Spanish
① KXTN	1310 AM	10.6 mi.	San Antonio, TX	Tejano
① KCOR	1350 AM	8.1 mi.	San Antonio, TX	Spanish
① KFNI	1380 AM	31.2 mi.	Pleasanton, TX	Ethnic
① KGNB	1420 AM	25.0 mi.	New Braunfels, TX	Talk
① KCHL	1480 AM	6.5 mi.	San Antonio, TX	Gospel Music
① KEDA	1540 AM	11.7 mi.	San Antonio, TX	Spanish

very weak signal weak signal moderate signal strong signal very strong signal

Try another search:

- Click on the help icons for additional information about a search term.
- If you are having trouble locating stations, look [here](#) for tips.
- Look [here](#) to find stations by geographic coordinates.

1. Enter your city or zipcode: (United States only)

City or Zipcode: State (optional):

2. Choose which types of radio stations to find:

- ☐ AM Only ☐ FM Only ☒ AM and FM
- ☒ Licensed Stations ☒ Low Power FM Stations
- ☒ Construction Permits ☒ FM Translators
- ☒ Unlicensed Stations ☒ FM Booster Stations

Station Format:

3. Choose a reception range:

- ☒ Local Stations Only

<http://www.radio-locator.com/cgi-bin/locate?select=city&city=San+Antonio&state=TX&sid=&x=0&y=0>

7/6/200

EXHIBIT 3

radio-locator

formerly the MIT List of Radio Stations on the Internet

find US radio stations by location

find by call letters

city/zip Austin

state TX

go

go

Do you want to sell merch like this...

Site Navigation:

[home page](#)
[city search](#)
[call sign search](#)
[format search](#)
[u.s. state search](#)
[canadian search](#)
[international search](#)
[advanced search](#)
[mobile edition](#)

There are 45 radio stations within close listening range of
Austin, Texas. (30° 18' 02" N, 97° 44' 50" W)

② Didn't find your station? [Click here](#) to modify your search.

② Info: Click on this icon to get more information about a station or to submit a change.

♣ Bitcaster: Indicates that the station broadcasts its audio on the Internet.

Distances to the stations are in miles.

Info	Call Sign	Frequency	Dist./Signal	City	School	Format
②	KNLE	88.1 FM	11.5 mi.	Round Rock, TX		Christian Contemporary
②	KAZI	88.7 FM	5.0 mi.	Austin, TX		Urban Contemporary
♣ ②	K206CE (KAWZ)	89.1 FM	9.9 mi.	Austin, TX		Religious
②	KMFA	89.5 FM	3.5 mi.	Austin, TX		Classical
♣ ②	KUT	90.5 FM	7.2 mi.	Austin, TX	University of Texas	Public Radio
♣ ②	KNCT	91.3 FM	48.0 mi.	Killeen, TX	Central Texas College	Variety
♣ ②	KOOP	91.7 FM	5.0 mi.	Hornsby, TX		Variety
♣ ②	KVRX	91.7 FM	5.0 mi.	Austin, TX	University of Texas	College
②	KQJZ	92.1 FM	18.9 mi.	Hutto, TX		Smooth Jazz
②	KKLB (CP) ②	92.5 FM	21.5 mi.	Elgin, TX		Tejano
②	KDHT	93.3 FM	32.8 mi.	Cedar Park, TX		Hip Hop
②	KLBJ	93.7 FM	2.8 mi.	Austin, TX		Rock
②	KAMX	94.7 FM	3.5 mi.	Luling, TX		Hot AC
②	KKMJ	95.5 FM	3.5 mi.	Austin, TX		Adult Contemporary
②	KHFI	96.7 FM	3.5 mi.	Georgetown, TX		Top-40
②	KVET	98.1 FM	3.5 mi.	Austin, TX		Country
②	KHHL	98.9 FM	32.8 mi.	Leander, TX		Spanish
②	K259AJ (KDHT)	99.7 FM	3.5 mi.	Austin, TX		Hip Hop
②	KASE	100.7 FM	3.5 mi.	Austin, TX		Country
②	KROX	101.5 FM	3.5 mi.	Buda, TX		Alternative
②	KPEZ	102.3 FM	7.2 mi.	Austin, TX		Classic Rock
②	KEYI	103.5 FM	19.4 mi.	San Marcos, TX		Oldies
②	KQBT	104.3 FM	24.6 mi.	Taylor, TX		Top-40
②	KXXS	104.9 FM	31.4 mi.	Marble Falls, TX		Spanish
②	KXXS (CP) ②	104.9 FM	17.4 mi.	Dripping Springs, TX		Spanish
②	KEMK	105.9 FM	3.5 mi.	Round Rock, TX		Rhythmic Oldies

① KGSR	107.1 FM	15.9 mi.	② Bastrop, TX	Adult Album Alternative
② KINV	107.7 FM	23.2 mi.	② Georgetown, TX	Tejano
① KTSA	550 AM	68.6 mi.	② San Antonio, TX	News/Talk
① KLBJ	590 AM	8.3 mi.	② Austin, TX	News/Talk
④ KSLR	630 AM	72.5 mi.	② San Antonio, TX	Religious
④ KKYX	680 AM	85.4 mi.	② San Antonio, TX	Country
① KSAH	720 AM	59.2 mi.	② Universal City, TX	Spanish
① KIXL	970 AM	7.5 mi.	② Del Valle, TX	Religious
① KBBW	1010 AM	98.3 mi.	② Waco-Martin, TX	Religious
① KFIT	1060 AM	6.0 mi.	② Lockhart, TX	Gospel Music
④ WOAI	1200 AM	59.8 mi.	② San Antonio, TX	News/Talk
④ KWNX	1260 AM	29.0 mi.	② Taylor, TX	Sports
④ KVET	1300 AM	5.6 mi.	② Austin, TX	Sports
④ KJCE	1370 AM	5.9 mi.	② Rollingwood, TX	Talk
① KELG	1440 AM	12.3 mi.	② Manor, TX	Spanish
① KFON	1490 AM	4.0 mi.	② Austin, TX	Spanish
④ KZNX	1530 AM	16.8 mi.	② Creedmoor, TX	Sports
④ KTXZ	1560 AM	7.0 mi.	② West Lake Hills, TX	Spanish
① KOKE	1600 AM	12.4 mi.	② Pflugerville, TX	Spanish

☐ very weak signal
 ☐ weak signal
 ☐ moderate signal
 ☐ strong signal
 ☐ very strong signal

Try another search:

- Click on the ② help icons for additional information about a search term.
- If you are having trouble locating stations, look [here](#) for tips.
- Look [here](#) to find stations by geographic coordinates.

1. Enter your city or zipcode: (United States only) ②

City or Zipcode: State (optional):

2. Choose which types of radio stations to find:

☐ AM Only
 ☐ FM Only
 ☒ AM and FM

- ☒ Licensed Stations ② ☒ Low Power FM Stations ②
☒ Construction Permits ② ☒ FM Translators ②
☒ Unlicensed Stations ② ☒ FM Booster Stations ②

Station Format: ②

3. Choose a reception range: ②

☒ Local Stations Only

<http://www.radio-locator.com/cgi-bin/locate?select=city&city=Austin&state=TX&sid=&x=0&y=0>

7/6/200

EXHIBIT 4

"not within the lawful jurisdiction of any other government" shall be occupied by American citizens. The discoverer of guano was to make such assertion, under oath. This assertion was made as to the Swan Islands, and a certificate, based in part thereon, was issued. If the jurisdiction, or claim of jurisdiction, of another State had been advanced the certificate would have been refused. The Cayo Verde Case, cited above, is illustrative. The mere issuance of a certificate, based upon the represented state of facts, cannot modify or alter the true facts. It would seem to follow that the Swan Islands, dominion over which was in Honduras, were not of that class of islands contemplated in the Act.

The same section provides that islands so possessed may be considered at the discretion of the President "as appertaining to the United States". The use of the word "appertain" is deft, since it carries no exact meaning and lends itself readily to circumstance and the wishes of those using it. It has given rise to such words as "appurtenant" and "appurtenance". The common law denies that land can be appurtenant to land. In a strict sense an island cannot be appurtenant to other territorial possessions. If the word "appertain" and its variants cannot be given a strict meaning they lose what little value they have when relied upon for the creation or
assertion

assertion of legal rights. The meaning of the Act must be found outside the phrase quoted above.

Section 1418 authorizes the President "at his discretion, to employ the land and naval forces of the United States to protect the rights of the discoverer..." If, upon occupation under the Guano Act, the islands were to become a part of the domain of the United States such authorization would be unnecessary. Further, the President probably would not have received discretionary power.

Section 1419 provides that nothing in the Act "shall be construed as obliging the United States to retain possession of the islands" after the removal of guano. If the word "possession" was used in a strict sense it follows that a mere temporary occupation, for a fixed purpose, was contemplated. Of course, possession could be retained. But it is doubtful if the Act contemplated such occupation as would give rise to the right of sovereignty.

Section 1412 stipulates that a discoverer shall show, inter alia, that "possession was taken in the name of the United States...". This condition was included in the Attorney General's opinion of June 2, 1857. As shown above, several certificates recited that occupation was taken in the name of the United States; the Swan Islands certificate did not. But it is my opinion that

CERTIFICATE OF SERVICE


I certify that on this 18th day of June, 2005, I have caused copies of the foregoing OPPOSITION OF KATHERINE PYEATT TO COUNTERPROPOSAL to be placed in the mails, first class, postage prepaid, addressed to the following:

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Radioactive, LLC
1717 Dixie Highway, Suite 650
Fort Wright, Kentucky 41011



Gene A. Bechtel

RECEIVED

JUL 18 2005

Federal Communications Commission
Office of Secretary

STUDY OF REPORTED DECISIONS
BY THE FCC
APPLYING THE "TUCK" PRECEDENT
TO DETERMINE WHETHER TO GRANT OR DENY
A "FIRST LOCAL SERVICE STATUS"
IN FM ALLOTMENT RULEMAKING PROCEEDINGS

AUGUST 2004

VOLUME I

Reported decisions applying the "Tuck" precedent
in which a "first local service status" was denied

Exhibit A

Reported decisions applying the "Tuck" precedent
in which a "first local service status" was granted

Exhibits 1-25

INDEX

VOLUME I

Reported decisions applying the "Tuck" precedent in which a "first local service status" was denied

- Ex. A November 30, 1999
 Community: Lolo, Montana, pop. 2,746
 Urbanized Area: Missoula, Montana

Reported decisions applying the "Tuck" precedent in which a "first local service status" was granted

- Ex. 1 September 22, 1995
 Community: Maspee, Massachusetts, pop. 7,884
 Urbanized Area: Hyannis, Massachusetts
- Ex. 2 September 29, 1995
 Community: Oak Grove, Kentucky, pop. 2,863
 Urbanized Area: Clarkville, Tenn./Ky.
- Ex. 3 March 29, 1996
 Community: Gilbert, Arizona, pop. 29,188
 Urbanized Area: Phoenix, Arizona
- Ex. 4 November 29, 1996
 Community: New Castle, Oklahoma, pop. 4,214
 Urbanized Area: Oklahoma City, Oklahoma
- Ex. 5 January 17, 1997
 Community: Flower Mound, Texas, pop. 15,527
 Urbanized Areas: Denton and Lewisville, Texas
- Ex. 6 February 18, 1997
 Community: Hope Sound, Florida, pop. 11,527
 Urbanized Area: Stuart, Florida
- Ex. 7 March 21, 1997
 Community: Wolfforth, Texas, pop. 1,941
 Urbanized Area: Lubbock, Texas
- Ex. 8 August 21, 1998
 Community: Robinson, Texas, pop. 7,111
 Urbanized Area: Waco, Texas
- Ex. 9 October 2, 1998
 Community: Azle, Texas, pop. 8,868
 Urbanized Area: Dallas-Fort Worth, Texas

- Ex. 10 February 12, 1989
Community: Whitesboro, Texas, pop. 3,209
Urbanized Area: Denison-Sherman, Texas
- Ex. 11 March 5, 1999
Community: Bryant, Arkansas, pop. 5,269
Urbanized Area: Little Rock-No. Little Rock, Ark.
- Ex. 12 July 2, 1999
Community: Briarcliff Acres, South Carolina
Urbanized Area: Myrtle Beach, South Carolina
- Ex. 13 August 20, 1999
Community: Leupp, Arizona, pop. 857
Urbanized Area: Flagstaff, Arizona
- Ex. 14 October 13, 1999
Community: Post Falls, Idaho, pop. 7,349
Urbanized Area: Spokane, Washington
- Ex. 15 October 29, 1999
Community: Hilliard, Ohio, pop. 11,796
Urbanized Area: Columbus, Ohio
- Ex. 16 February 2, 2000
Community: Cedar Park, Texas, pop. 5,161
Urbanized Area: Austin, Texas
- Ex. 17 February 25, 2000
Community: West Des Moines, Iowa, pop. 39,387
Urbanized Area: Des Moines, Iowa
- Ex. 18 February 25, 2000
Community: Johnson City, New York, pop. 16,890
Urbanized Area: Binghamton, New York
- Ex. 19 March 3, 2000
Community: Taft, Texas, pop. 3,327
Urbanized Area: Corpus Christi, Texas
- Ex. 20 March 21, 2000
Community: Allen, Texas, pop. 18309
Urbanized Area: Dallas-Fort Worth, Texas
and
Community: Benbrook, Texas, pop. 19,564
Urbanized Area: Dallas-Fort Worth, Texas
- Ex. 21 April 28, 2000
Community: College Park, Georgia, pop. 20,457
Urbanized Area: Atlanta, Georgia
- Ex. 22 May 19, 2000
Community: Clio, Michigan, pop. 2,629
Urbanized Area: Flint, Michigan

- Ex. 23 August 18, 2000
Community: Lynn Haven, Florida, pop. 9,298
Urbanized Area: Panama City, Florida
- Ex. 24 September 8, 2000
Community: Missouri City, Texas, pop. 36,176
Urbanized Area: Houston, Texas
- Ex. 25 September 29, 2000
Community: Coon Rapids, Minnesota, pop. 52,978
Urbanized Area: Minneapolis-St. Paul, Minnesota

VOLUME II

Reported decisions applying the "Tuck" precedent
in which a "first local service status" was granted
(Continued)

- Ex. 26 March 23, 2001
Community: Park Forest, Illinois, pop. 24,656
Urbanized Area: Chicago, Illinois
- Ex. 27 May 18, 2001
Community: White Oak, Texas, pop. 5,136
Urbanized Area: Longview, Texas
- Ex. 28 July 6, 2001
Community: Scotia, New York, pop. 7,359
Urbanized Areas: Albany, Troy, Schenectady, NY
- Ex. 29 July 13, 2001
Community: Indian Trail, North Carolina, pop. 1,942
Urbanized Area: Charlotte, North Carolina
- Ex. 30 October 26, 2001
Community: Neptune Beach, Florida, pop. 6,816
Urbanized Area: Jacksonville, Florida
- Ex. 31 March 19, 2002
Community: Weber City, Virginia, pop. 1,377
Urbanized Area: Kingsport, Tenn./Va.
- Ex. 32 June 14, 2002
Community: Sunnyvale, California, pop. 131,760
Urbanized Area: San Jose, California

- Ex. 33 August 30, 2002
Community: Brookwood, Alabama, pop. 1,483
Urbanized Area: Tuscaloosa, Alabama
and
Community: Hoover, Alabama, pop. 62,742
Urbanized Area: Birmingham, Alabama
- Ex. 34 September 20, 2002
Community: La Grange, North Carolina, pop. 2,805
Urbanized Area: Goldsboro, North Carolina
- Ex. 35 October 18, 2002
Community: Middleburg, Florida, pop. 10,388
Urbanized Area: Jacksonville, Florida
- Ex. 36 December 16, 2002
Community: Speedway, Indiana, pop. 12,881
Urbanized Area: Indianapolis, Indiana
- Ex. 37 May 30, 2003
Community: Fishers, Indiana, pop. 37,845
Urbanized Area: Indianapolis, Indiana
- Ex. 38 June 23, 2003
Community: Fletcher, North Carolina, pop. 4,185
Urbanized Area: Asheville, North Carolina
- Ex. 39 July 24, 2003
Community: Malta, New York, pop. not given
Urbanized Areas: Albany and Saratoga Springs, NY
- Ex. 40 September 5, 2003
Community: Tybee Island, Georgia, pop. 3,392
Urbanized Area: Savannah, Georgia
- Ex. 41 September 5, 2003
Community: Watkinsville, Georgia, pop. 2,097
Urbanized Area: Athens, Georgia
- Ex. 42 November 14, 2003
Community: Maitland, Florida, pop. 12,109
Urbanized Area: Orlando, Florida
- Ex. 43 December 8, 2003
Community: Oak Grove, Kentucky, pop. 7,064
Urbanized Area: Clarksville, Tenn./Ky.
- Ex. 44 December 23, 2003
Community: Gurley, Alabama, pop. 876
Urbanized Area: Huntsville, Alabama
- Ex. 45 January 16, 2004
Community: South Jordan, Utah, pop. 29,437
Urbanized Area: Salt Lake City, Utah